

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 05-10370PBS

BARBARA CORDI-ALLEN and JOHN ALLEN)
)
 Plaintiffs,)
)
 v.)
)
 JOSEPH R. CONLON, ARTHUR F. HULTIN,)
 NORMAN H. POPE, KEITH S. ALTHAUS, and)
 MARINNA MATRICARDI as they are members)
 and are collectively the TRURO ZONING)
 BOARD OF APPEALS, BROOKE NEWMAN,)
 and the TOWN OF TRURO, MASSACHUSETTS)
)
 Defendants.)

DEFENDANT BROOKE NEWMAN'S
MOTION FOR SUMMARY
JUDGMENT ON COUNT I OF THE
COMPLAINT¹

Defendant Brooke Newman hereby moves, pursuant to Fed. R. Civ. P. 56, for summary judgment on Count I of plaintiffs' complaint. Summary judgment should be granted because there is no genuine issue as to any material fact and Ms. Newman is entitled to judgment as a matter of law. Plaintiffs do not have standing to bring this appeal, thus, depriving the Court of subject matter jurisdiction. Even if plaintiffs could demonstrate that they have standing, which is not possible, they cannot meet their burden of proving that the decision of the Zoning Board of Appeals upholding the denial of plaintiffs' enforcement request is legally untenable, in excess of the Board's authority, or is arbitrary and capricious. As a direct result of this malicious and meritless complaint, Ms. Newman has suffered damages, and has been prevented from full use and enjoyment of her property for nearly two

¹ It is understood and acknowledged by all parties and expressly indicated in the papers served upon Ms. Newman that Count I is the only count of the complaint that concerns Ms. Newman.

years. A memorandum and affidavits of Brooke Newman and Julie Pruitt Barry in support of this motion are filed herewith.

WHEREFORE, Ms. Newman respectfully requests that this Court, pursuant to Fed. R. Civ. P. 56, allow this motion and dismiss Count I of the complaint, award Ms. Newman her reasonable attorneys' fees and costs in defending against this meritless and malicious action, order plaintiffs to immediately and without delay remove the Statement of Notice from Ms. Newman's title in the Barnstable Registry of Deeds, and grant such other and further relief as is just and proper.

BROOKE NEWMAN

By her attorneys,

/s/ Julie Pruitt Barry

Julie Pruitt Barry (BBO #563018)

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Dated: May 26, 2006

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